

## REMARKS

With regard to the Examiner's rejection of Applicant's claim of priority, the Applicant strenuously argues that the device disclosed in the parent application does in fact prevent the passage of embolic material from the left atrial appendage and that this effect is in part due to the natural propagation of tissue over the exposed surfaces of the implant. For this reason, Applicant argues that the claimed functionality is inherent in the device disclosed.

The Examiner has rejected certain claims for double patenting. Applicant respectfully requests the Examiner to reconsider this requirement. The Van Tassel invention has been characterized throughout prosecution as a device which provides a barrier of the type permitting fluid exchange the membrane to effectively filter clots from the left atrial appendage and prevent them from entering into general circulation. By way of contrast the present invention calls for a barrier, which understood in light of the prosecution history would be found to not provide the filtering function. In Applicant's view there is no basis to conclude that these are the same invention as that term is used in obviousness type double patenting. For this reason Applicant respectfully requests reconsideration of the anticipation and double patenting rejections.

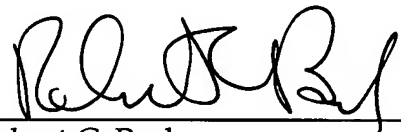
## CONCLUSION

All of the claims remaining in this application should now be seen to be in condition for allowance. The prompt issuance of a notice to that effect is solicited.

Date: \_\_\_\_\_

2/24/10

Respectfully Submitted,



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